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## ASSET DELIVERY PROGRAMME: PRE-PROCUREMENT QUALIFICATION REPORT AND FINAL PROCUREMENT DOCUMENTATION

### 1 PURPOSE OF REPORT

- 1.1 This report submits the Asset Delivery Programme (the ‘programme’) Pre Procurement report for approval.
- 1.2 This report also submits the programme final procurement documentation for approval.

### 2 INTRODUCTION

- 2.1 Further to the resolutions of the meeting of Investment Board on 24 April 2019, officers have completed the Pre-Procurement Qualification (PQQ) phase of the programme.
- 2.2 The objective of this phase was to check whether the organisations who have responded to the OJEU notice could provide the works as set out in the Outline Business Case. This involved assessing each organisation’s skills, experience and past performance on similar projects.

### 3 PROCUREMENT

- 3.1 As set out in a previous report to Investment Board, the competitive dialogue process is the most appropriate procurement route to select a development partner given that the Council wishes to influence the outcomes for each site alongside experienced bidders through dialogue to work up innovative solutions to deliver the objectives for the Programme.
- 3.2 The procurement process comprises the following stages:
  - **Soft Market Testing:** This phase enabled the Council to test its proposals in the market before the formal procurement commenced. This work has been completed.
  - **Pre-Procurement Qualification Stage:** This objective of this phase was to check whether the organisations who responded to the OJEU notice are capable of providing the works. This involved assessing each organisation’s skills, experience and past performance on similar projects using the rationale agreed by the Investment Board on 24 April 2019. This work has been completed and further information can be found at **exempt appendix 1**.
  - **Dialogue Stage:** The aim of the Dialogue Phase is to identify and define the best solution capable of satisfying the Council’s requirements. The bidders (shortlisted via the PQQ phase) will be invited to submit Outline Submissions, which will be used to indicate

and explain bidders' outline proposals and potential solutions and will be used by the Council to facilitate discussion at Dialogue meetings. Feedback will be provided to the Programme Board and Member Working Group to help shape the final submissions.

- **Final Tender Period:** Bidders will be invited to submit their final tenders for assessment against the award criteria and evaluation methodology and the top scoring bidder will be selected by the Council to enter into the development agreement.
- **Award Stage:** Terms of progressing forward with the successful bidder are agreed and the development agreement is awarded.

#### **4 PROCUREMENT DOCUMENTATION**

- 4.1 There are four main documents, which will be released when the Competitive Dialogue process is initiated, referred to as the 'Procurement Documentation'.

##### **Output Specification (Exempt Appendix 2)**

- 4.2 This document sets out the Council's required deliverables of the Programme, that is, what the Council is aiming to achieve from the procurement. The Output Specification sets out the ambition the Council has for its new operational buildings and the vision of how the Council will work going forward, that is, an emphasis of mobile and flexible working and the flexible use of space for staff, Members and the community. This document will provide bidders with information such as the Council's minimum requirements and also invites innovation from the market to bring forward optimum solutions for the spaces based on good industry practice. Framing the Council's requirements in terms of an output, rather than the mechanics of its delivery, enables bidders to propose innovative solutions that might not have occurred to the Council.

##### **Invitation to Participate in Dialogue (Exempt Appendix 3)**

- 4.3 This document (also known as the "ITPD") sets out the terms of how the Council intends to manage the dialogue period, how the bidder will conduct themselves during the dialogue phase and invites bidders to submit outline submissions. The ITPD also defines the award criteria that will be the basis of the evaluation of final tenders.

##### **Invitation to Submit Final Tenders (Exempt Appendix 4)**

- 4.4 Once the dialogue process is closed (the timing of which is at the Council's discretion) bidders will be required to submit final tenders which set out their definitive proposals for the Council to consider. The Invitation to Submit Final Tenders document (also known as the "ITSFT") reaffirms the conditions set out in the Invitation to Participate in Dialogue and the award criteria that will be the basis of the evaluation of the final tenders.

### **Heads of Terms (Exempt Appendix 5)**

The Heads of Terms (also known as “HOT”) sets out a proposal for how the Council might work with a development partner and what the main terms of the development agreement will be. It covers key issues such as planning, phasing, funding, risk allocation and termination. The HOT will be used during Dialogue to facilitate discussion on proposals for the delivery structure and gauge feedback from bidders, who may also propose alternative ideas for the Council’s consideration.

## **5 NEXT STEPS**

- 5.1 The Pre-Procurement Qualification report at exempt appendix 1 sets out that, subject to Investment Board approval, the successful bidders be invited to enter into the competitive dialogue process.
- 5.2 Members noted draft versions of the OS/ITPD/ISFT at a meeting of Investment Board on 24 April 2019.
- 5.3 It is now crucial that final versions of these documents be approved as these will be issued to bidders as the competitive dialogue process is initiated. The documents have been drafted by the Council’s technical advisors and reviewed by officers.
- 5.4 Competitive dialogue is a crucial phase of the procurement process and will enable the Council to receive interim solutions to deliver the Council’s requirements of the programme before the final tenders are submitted. These interim solutions (suitably anonymised to protect the integrity of the competitive process) will be shared with the Programme Board and Member Working Group with feedback being shared with the market to enable optimal solutions and innovation to be brought forward using the technical expertise and market knowledge of the bidders.

## **6 RISK IMPLICATIONS**

- 6.1 Treasury Guidance and good practice dictates that projects of this magnitude should record and monitor risks throughout the various stages of business case refinement.
- 6.2 It should be noted that property development carries inherent risk; the Council should maintain a balanced risk profile which is commensurate with its appetite for risk.
- 6.3 The Risk Register is a live document and will be regularly reviewed at officer and Programme Board level. The register will capture key risks, risk owners, provide a RAG status and list mitigating factors.

## **7 CRIME AND DISORDER IMPLICATIONS**

- 7.1 None.

## 8 ENVIRONMENTAL IMPLICATIONS

8.1 None.

## 9 RESOURCE IMPLICATIONS

9.1 The Financial Case for the proposed Programme was set out in the OBC. Further detailed financial analysis will be undertaken at FBC stage to ensure the Programme remains affordable and represents Value for Money to the Council.

9.2 These budgets will continue to be monitored to ensure that the programme resources stay on track.

## 10 LEGAL IMPLICATIONS

11 The Council is required to comply with the Public Contracts Regulations 2015 (“PCR 2015”) in respect of the procurement. Anthony Collins Solicitors LLP and Gleeds have been appointed to advise on all aspects of the procurement process and will provide full support on the procurement and contract documents.

11.1 Challenge risk is inherent in any public procurement process, largely from bidders who are excluded or unsuccessful during the process. The Council is working closely with Anthony Collins Solicitors to mitigate against the risk of procurement challenge to the greatest extent possible.

## 12 EQUALITY AND DIVERSITY IMPLICATIONS

12.1 An Equality Impact Assessment (EIA) has been completed and there are not considered to be any equality and diversity implications at this stage. Further EIAs will be undertaken as the project develops.

## 13 RECOMMENDATION

13.1 It is proposed that the Board **RESOLVES**

- (1) To note the draft Heads of Terms.
- (2) To approve the Pre-Procurement Qualification report.
- (3) That the successful bidders, as set out in the Pre-Procurement Qualification report, be invited to enter into the competitive dialogue process.
- (4) To approve the final Output Specification.
- (5) To approve the final Invitation to Participate in Dialogue.
- (6) To approve the final Invitation to Submit Final Tenders.



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**Background Papers:-**

None.

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